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September 28, 2022

BY ECF

Honorable Jesse M. Furman
United States District Judge for
the Southern District of New York
40 Foley Square
New York, New York 10007-1312

United States v. Joshua Schulte, 17 Cr. 548 (JMF)

(Letter re: Government's *Ex Parte*, Sealed Application of unknown date)

Dear Judge Furman,

On September 26, 2022, at 8:18 a.m., I received an email from the government informing me that Mr. Schulte would not be produced for his scheduled 8:00 a.m. SCIF appointment.¹ The cancellation, I was told, was based on a sealed order from the court. The only other information provided was that Mr. Schulte would not be produced in the SCIF until October 7, 2022. I was not told that the government had filed an *ex parte* application to the Court seeking any such relief.

A review of the Electronic Case Filings on docket number 17 Cr. 548 (JMF) bears no notice of an *ex parte* application by the government in the last week. The docket reflects the issuance of a sealed order on September 27, 2022. See Dkt Entry # 949.

Given the above actions, I write to seek the following relief from Court:

1. Order the government to update docket 17 Cr. 548 (JMF) so that it reflects notice of any *ex parte* application made by the government to the Court that led to the issuance of the Order in ECF # 949.
2. If the government filed its application both *ex parte* and under seal, I ask that the Court order the government to make ensure the court docket reflects both those facts.
3. To the extent the government's application on which the Court's sealed order issued, was properly *ex parte* and under seal, I seek no redress at this time.
4. Should the Court decide that parts or all of the government's application was not properly *ex parte* or improperly sealed, I ask the Court order the government to provide to me a copy of the government's application either in its entirety or in redacted form as the Court sees fit.

¹ In the same electronic mail, the government informed me that it would no longer agree to provide Mr. Schulte with a replacement laptop. That issue is not addressed in this letter.

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5. To the extent the Court determines it proper for its Order to be unsealed, and provided to the defense, I respectfully request a copy of docket entry # 949.
6. Order the government to inform Mr. Schulte which team (prosecution or taint) from the government made the *ex parte* application on which ECF entry 949 is based.

I thank the Court for its time and consideration of this matter.

Respectfully submitted,

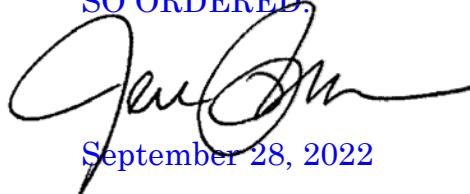
/s/Sabrina P. Shroff
Counsel to Joshua A. Schulte

SPS/mtf

ECF No. 949 is the Government's *ex parte* and sealed application, with the Court's endorsement, both ordering that Mr. Schulte not be produced to the SCIF prior to October 7, 2022, and directing the Clerk to file and maintain the endorsed application under seal until further notice of the Court. All of that is to say, the Court has already approved the Government's seeking relief *ex parte* and under seal. That said, no later than **September 30, 2022**, the Government shall file a letter addressing whether or when ECF No. 949 can be disclosed to Defendant, whether in redacted form or unredacted form; and whether there is any reason to withhold from Defendant the identity of the AUSAs who filed the application.

The Clerk of Court is directed to terminate Docket No. 951.

SO ORDERED.



A handwritten signature in black ink, appearing to read "Sabrina P. Shroff".

September 28, 2022